

STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Department of Insurance and Financial Services

Enforcement Case No. 18-15151

Agency No. 19-464-L

Petitioner,

v

Matthew Michalik  
System ID No. 0671635

Respondent.

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Issued and entered  
on February 14, 2020  
by Randall S. Gregg  
Senior Deputy Director

FINAL DECISION

I. Background

Matthew Michalik (Respondent) is a licensed resident insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent submitted applications for insurance with knowingly false information and failed to notify DIFS of administrative action against him. After investigation and verification of the information, on November 19, 2019, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent had provided justification for revocation of licensure and other sanctions pursuant to Sections 1239(1)(b), (e), (g), (h), and (i) and 1244(1)(a-d) of the Michigan Insurance Code (Code), MCL 500.1239(1)(b), (e), (g), (h), and (i) and 500.1244(1)(a-d). Respondent failed to reply to the NOSC.

On January 6, 2020, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address he is required to maintain with DIFS. The Order for Hearing required Respondent to take one of the following actions within 21 days: (1) agree to a resolution of the case, (2) file a response to the allegations with a statement that Respondent planned to attend the hearing, or (3) request an adjournment. Respondent replied to the Administrative Complaint but failed to show compliance or take any action required by the Order for Hearing. Respondent eventually ceased correspondence with DIFS.

On January 30, 2020, DIFS Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to respond, Petitioner's motion is granted. The Administrative

Complaint, being unchallenged, is accepted as true. Based upon the Administrative Complaint, the Director makes the following Findings of Fact and Conclusions of Law.

## **II. Findings of Fact and Conclusions of Law**

1. At all relevant times, Matthew Michalik (Respondent) was a licensed resident insurance producer with qualifications in accident and health. Respondent has been licensed since February 14, 2014. Respondent's license is currently suspended for education as of October 1, 2019.
2. On February 17, 2014, Respondent was appointed with American Family Life Assurance Company of Columbus (AFLAC).
3. On August 24, 2017, AFLAC terminated its appointment with Respondent for cause. Specifically, AFLAC alleged that Respondent submitted applications for insurance with knowingly false information, submitted applications for insurance without insureds' knowledge or authorization, and conspired to manipulate an AFLAC sales contest.
4. AFLAC found that Respondent had created a "business" for the sole purpose of attempting to qualify for an AFLAC contest offering travel prizes. In creating the business, and in order to qualify for the contest, Respondent submitted applications for insurance for his father and brother who were falsely named as employees of the business. Respondent later admitted to creating this business in an attempt to qualify for the contest and stated his business was not licensed nor was he able to generate W-2s or 1099s for his father and brother, claiming he only paid them in cash. Respondent was not able to explain any work that was actually done by his father and brother.
5. Respondent submitted applications for insurance for [REDACTED] and [REDACTED] on June 26, 2017, and June 27, 2017, respectively. The applications state that [REDACTED] and [REDACTED] are new employees. The applications also state that the policy premiums would be paid through payroll deduction. As [REDACTED] and [REDACTED] were not paid employees, no such payroll deduction existed. AFLAC paid out advanced commissions for these policies to Respondent in the amount of \$388.04. The last day to qualify for this particular AFLAC sales contest was June 30, 2017.
6. On October 18, 2017, DIFS Staff mailed a letter of inquiry to Respondent's address of record he is required to keep on file. The letter was subsequently returned by the U.S. Postal Service as "moved left no address, unable to forward."
7. On October 25, 2017, DIFS Staff mailed the letter of inquiry to two additional addresses for Respondent obtained via Lexis Nexus search. Respondent did not reply to the inquiry, nor were the letters returned. Respondent has not yet updated his mailing address.
8. On December 22, 2017, the Indiana Commissioner of Insurance issued an Order suspending Respondent's license in Indiana for failure to comply with provisions of the Indiana Code. Respondent has not reported this administrative action to DIFS.

9. As a licensee, Respondent knew or had reason to know that Section 249 of the Code, MCL 500.249, requires that licensees respond to inquiries by DIFS Staff for the purposes of ascertaining compliance with the provisions of the insurance laws of the state.
10. Respondent has violated Section 249 of the Code by failing to respond to DIFS' inquiries and denying DIFS the opportunity to ascertain compliance with the law.
11. As a licensee, Respondent knew or had reason to know that Section 1238(1) of the Code, MCL 500.1238(1), provides that a licensee must notify the Director of any change in his or her mailing address within 30 days of the change.
12. Respondent violated Section 1238(1) of the Code by failing to notify DIFS of any change in Respondent's address as required.
13. As a licensee, Respondent knew or had reason to know that Section 1247(1) of the Code, MCL 500.1247(1), requires that an insurance producer notify the Director of any adverse administrative actions within 30 days.
14. Respondent violated Section 1247(1) of the Code by failing to inform DIFS of the Indiana administrative action and license suspension.
15. As a licensee, Respondent knew or had reason to know that Section 2018 of the Code, MCL 500.2018, provides that an unfair method of competition and an unfair or deceptive act or practice in the business of insurance includes making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money, or other benefit from an insurer, agent, broker, or individual.
16. Respondent violated Section 2018 of the Code by submitting applications for insurance with knowingly false information regarding the employment status of the applicants and method of premium payment, for the purpose of obtaining a commission and contest participation from an insurer.
17. As a licensee, Respondent knew or had reason to know that Section 2003 of the Code, MCL 500.2003, prohibits licensees from engaging in practices defined in the Code as being unfair methods of competition or an unfair or deceptive act or practice in the business of insurance.
18. Respondent violated Section 2003 of the Code by engaging in a trade practice that is defined in Section 2018 to be an unfair method of competition or an unfair and deceptive act or practice in the business of insurance, as set forth above.
19. As a licensee, Respondent knew or had reason to know that Sections 4503(a) and (b) of the Code, MCL 500.4503(a) and (b), prohibit licensees from knowingly preparing or presenting written or oral statements containing false information concerning any fact or thing material to the application for insurance with the intent to defraud, injure, or deceive.
20. Respondent violated Sections 4503(a) and (b) of the Code by preparing and submitting applications for insurance with full knowledge that the information contained in the applications regarding the

employment status of the applicants and method of premium payment was false, with the intent to deceive AFLAC as to the authenticity of the application and the intent to defraud AFLAC of advanced commissions and eligibility to enter an AFLAC sales contest.

21. As a licensee, Respondent knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), provides that he may be sanctioned for violating any insurance laws of this state or another. As set forth above, Respondent has violated portions of the Indiana Code and Sections 249(a), 1238(1), 1247(1), 2003, 2018, and 4503(a) and (b) of the Code, MCL 500.249(a), 500.1238(1), 500.1247(1), 500.2003, 500.2018, and 500.4503(a) and (b) and, thus, provided justification for sanctions, pursuant to Section 1239(1)(b) of the Code, MCL 500.1239(1)(b).
22. As a licensee, Respondent knew or had reason to know that Section 1239(1)(e) of the Code, MCL 500.1239(1)(e), provides that he may be sanctioned for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance. As set forth above, Respondent misrepresented an application for insurance by submitting applications for insurance with knowingly false information as to the applicant's employment status and method of premium payment and, thus, provided justification for sanctions, pursuant to Section 1239(1)(e) of the Code, MCL 500.1239(1)(e).
23. As a licensee, Respondent knew or had reason to know that Section 1239(1)(g) of the Code, MCL 500.1239(1)(g), provides that he may be sanctioned for having admitted or been found to have committed any insurance unfair trade practice or fraud. As set forth above, Respondent violated the "Uniform Trade Practices Act," Sections 2003 and 2018 of the Code, and, thus, provided justification for sanctions, pursuant to Section 1239(1)(g) of the Code, MCL 500.1239(1)(g).
24. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides that he may be sanctioned for "[u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere." By submitting applications for insurance with knowingly false information, receiving advanced commissions for illegitimate policies, and creating an ineligible business in an attempt to manipulate a sales contest, Respondent has used fraudulent and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in this state and, thus, provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h).
25. As a licensee, Respondent knew or had reason to know that Section 1239(1)(i) of the Code, MCL 500.1239(1)(i), provides that he may be sanctioned for having an insurance producer license or its equivalent denied, suspended, or revoked in any other state, province, district, or territory. As set forth above, Respondent had his insurance producer license suspended in the state of Indiana and, thus, provided justification for sanctions, pursuant to Section 1239(1)(i) of the Code, MCL 500.1239(1)(i).
26. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine, the refund of any overcharges, that restitution be made to cover losses, damages or other harm attributed to Respondent's violation or violations of the Code, and/or other licensing sanctions, including revocation of licensure.

27. On November 19, 2019, a Notice of Opportunity to Show Compliance was mailed by first class mail to Respondent at the following addresses on file without a response:

Mr. Matthew Michalik

[REDACTED]  
[REDACTED]

Mr. Matthew Michalik

[REDACTED]

Mr. Matthew Michalik

[REDACTED]

28. On January 6, 2020, true copies of an Administrative Complaint, Order for Hearing and Notice of Hearing were mailed by first class mail to Respondent at the following addresses on file without a response:

Mr. Matthew Michalik

[REDACTED]

Mr. Matthew Michalik

[REDACTED]

Mr. Matthew Michalik

[REDACTED]

29. In paragraph 3 of the Order for Hearing, the Respondent was ordered to do one of the following within 21 days of the date of the Order: 1) agree to a resolution with the opposing party, 2) file a response to the allegations in the Administrative Complaint and file a statement that Respondent plans to attend the hearing as scheduled, or 3) file a request for an adjournment. Paragraph 5 states that failure to make the required filing shall constitute the default of Respondent in this contested case.
30. Respondent has failed to take any of the actions required by paragraph 3 of the Order. See Petitioner's Exhibit 1, Affidavit of Christy Capelin.
31. Respondent has received notice and has been given an opportunity to respond and appear and has not responded as required nor appeared.
32. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

### III. Order

Based upon the Respondent's conduct and the applicable law cited above, it is ordered that:

1. Respondent shall **CEASE** and **DESIST** from violating the Code.
2. Respondent shall immediately **CEASE** and **DESIST** from engaging in the business of insurance.
3. Pursuant to MCL 500.249, MCL 500.1239(1)(b), (e), (g), (h), and (i) and MCL 500.1244(1)(d), Respondent's non-resident insurance producer license (System ID No. 0671635) is **REVOKED**.

Anita G. Fox, Director  
For the Director:

A handwritten signature in black ink, appearing to read 'RS Gregg', is written over a horizontal line.

Randall S. Gregg, Senior Deputy Director